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SOME CONSIDERATIONS

IN REGARD TO THE

DANGEROUS CONSEQUENCES

Which might enſue to the

CONSTITUTION

From the paſſing of the

EAST INDIA BILL.

Sine cauſâ me afferit injuriâ.

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BRITISH MUSEUM

SOME

CONSIDERATIONS, &c.

POLITICS, though it is the moſt common, yet ſurely it cannot be regarded as the leaſt important ſubject which engages the general attention; and though it affords a topic of converſation for the moſt frivolous company, and every preſs teems with it, yet no blame can ſurely be imputed to any one, who offers his real ſentiments, on what the peace, order, and regulations of that ſociety depends, in

which he is ſo nearly intereſted. Conſidering it therefore as the ſubject of that which is an equivalent, or price, for our natural liberty; it is a duty which every man owes to himſelf to think upon the ſubject; and it is a duty which he owes his fellow members, to offer ſuch his ſentiments for their judgement and inſpection. If he hath form'd an erroneous opinion, his apprehenſions and fears are quieted, by the conviction of thoſe of ſuperior judgment; if a juſt one, he hath the ſatisfaction of having in ſome meaſure, perhaps contributed to the ſafety and welfare of the community. Actuated merely through a ſenſe of this, unbiaſſed by any partiality on the one ſide, or prejudice on the other; I was induc'd to offer this to the public: without any further exordium therefore to this ſo ſhort a work, than declaring

claring myſelf the advocate of uninfluenced truths, I ſhall deliver my ſentiments as dictated by them.

It is not intended here to ſtate the account of the Proprietors on the one hand, or of Government on the other, as this hath already been done by thoſe who are further acquainted with them than myſelf. Neither, in regard to this point, can any abſolute determination be formed, as thoſe who are alone acquainted with them, have given each ſuch oppoſite accounts, as is beſt ſuited to his ſide of the queſtion. This therefore muſt remain as matter of private opinion, upon the credit of others; 'tis my intent only to conſider that part of the queſtion which is brought home to reaſon, and becomes the ſubject of every rational enquirer. I ſhall therefore confine myſelf

myſelf to the latter part of the charge conſtituted againſt the company, and from thence deduce thoſe inferences, which appear as moſt juſt and reaſonable.

The charge which we have to do with is, that by the cruelties and enormities of their ſervants, they have become a diſgrace to humanity and their country, they have therefore violated and diſannulled the effect of their charter, which was granted them only ſo long, as they could ſuſtain it with credit to themſelves, and for the benefit and honour of their country. This being eſtabliſhed, of courſe it muſt revert, like every other property, to the original donor, which is Government. How far theſe facts *have* been eſtabliſhed, remains now to be conſidered, and the only queſtion reſulting will be, whether the de-

fects

fects in the East India Company have been so very great and notorious, as to have entitled Government to take away those rights and privileges, which ought otherwise to be held as sacred and inviolable, as the very constitution itself?

That such enormities *have* been committed, no one can in the least doubt; and that our very name is become a term of reproach and cruelty, the frequent accounts which have been transmitted us, by men of the most allowed integrity, have too fully verified. Far be it therefore here intended to deny or defend them: it will only be asked, does the immediate cause of all these enormities result from the East India Company; or are they such, as must, under certain circumstances, unavoidably happen, and beyond the reach

of

of any power to ſuppreſs them? The very face of the accuſation ſeems to indicate ſomething of this nature; for we are told, in the firſt place, it is their ſervants who have committed all theſe acts: and they infer the badneſs of the ſpring, becauſe, others have polluted and diſturbed it. Though the maſter is in ſome meaſure anſwerable for the fault of his ſervant, committed under his immediate inſpection, becauſe it is preſumed to be in his power to prevent them; yet, where the actions of men are ſo very far removed from the eye of ſcrutiny, it is difficult and almoſt impoſſible, for any power at ſo great a diſtance to be able to reſtrain them.

It is an experienced truth, that mankind are rather influenced in their actions,

through

through a dread of puniſhment, than through any real deſire of doing good, and in proportion as the fear of conviction or puniſhment ceaſes, the commiſſion of a crime becomes the leſs important. This is a rule applicable to mankind in general, but much more does it hold good in regard to thoſe whoſe minds have ſeldom been ſo much enlightened either by knowledge or education to diſcern the ſplendor of a good action, or who have independence enough to keep them from the temptation of committing a bad one. Thoſe who proffer their ſervices for India, will generally be men of the loweſt and meaneſt ſort, and whoſe ſole intent of going there is to acquire a fortune in as a rapid a manner as poſſible; for who will chooſe to riſque the dangers

of going abroad, who have ſubſiſtence enough to enable them to live comfortable and independant at home?

The means of gaining a fortune, will be generally either good or bad, in proportion to the dangers hazarded in gaining it. Men who are continually expoſed to the moſt imminent, will rarely wait for the ſlow acquiſitions of honeſt dealings on the one hand, or will be ſubject to the viciſſitudes of fortune on the other. It will generally therefore be the caſe, that they will ſnatch at every opportunity that offers, though it be at the expence of others: for whilſt they repreſent to themſelves their own, they will ſeldom at the ſame time view with an eye of compaſſion the misfortunes of others. Actuated ſolely by the thirſt of acquiſition, their de-

fires

ſires encreaſe with each opportunity; and every temptation adds a freſh evil: advancing in ſuch a progreſſive motion, they at length arrive at ſuch a pitch, that they conſider mankind merely as their prey; and callous to every ſenſe of principle and humanity they commit actions, which nature is ſhocked at the very relation of.

Such has been the cauſe of all the enormities committed in India, nor can we expect them to be otherwiſe, ſo long as the principles of men continue the ſame, and ſo little liable to be inveſtigated, as muſt always be the caſe, where the actions of men and the ſeat of puniſhment are ſo far aſunder.

Will government therefore when they have ſnatched away the charter of the company

company and assumed the reins into their own hands, will they be more able to suppress them? instances have recently occured, when government have attempted the task, and the event only discovered their inability to effect it. Those who have been the authors of the greatest crimes and have wantoned in the most savage acts of barbarity upon the poor natives, those very men, when called before the bar of government, have either escaped altogether with impunity, or through the trifling punishment inflicted, have only tended to encrease the outrages, by giving others a still more contemptible idea of the power of government to redress them.

These are names too well noted upon record, to be here mentioned; and there

is no inſtance, wherever government has aſſumed the power, that has been able to inflict the deſerved puniſhment. Seeing therefore the inability of government to redreſs the faults of their ſervants, we can expect but little reform in this reſpect; and the poor natives will only experience the change of one tyrant for another—"*mutato nomine eadem fabula narretur.*"

Does there then remain a pretence, any apparent cauſe for a revolution at once ſo dangerous and extraordinary? that government hath a right to reſume its own grant when a body politic through negligence or abuſe of its franchiſes, has broken the condition upon which it was given them, muſt univerſally be admitted; but an exertion of ſuch power without any cauſe, is almoſt unprecedented, and the only time

time in which ever ſuch authority was put in execution was in a * reign of deſpotiſm.

A charter, which is the evidence of a private right of the ſubject, ought ſurely to be deemd as ſacred and inviolable as any branch or part of the conſtitution, and the right of the ſubject as equally dear as the prerogative of King or Parliament. We rightly attribute to them each in their diſtinct

* The exertion of this act of law, for the purpoſes of the State, in the reigns of King Charles and King James IId. particularly by ſeizing the charter of the City of London, gave great and juſt offences--the judgement againſt that of London was reverſed by Act of Parliament (ſtat. William and Mary. c. 8.) after the revolution.

diſtinct as well as collective capacity, *abſolute perfection:* becauſe we will not even ſuppoſe a caſe to happen, where they will manifeſtly exert their power and authority to the prejudice of the ſubject and the private rights of individuals. I do not mean from hence to draw any undue or unjuſt inference, but ſurely it may in ſome meaſure be inferred, that a charter, which is granted from the crown to the ſubject inplicitely upon the ſame terms, ought not, unleſs the condition on which it was granted is manifeſtly broken, to be violated or invaded.

What is a charter, but the moſt open evidence of the private rights of individuals; their lives, their liberties, and laws may be all ſaid to be comprized in it, and equally as good a right have they to de-

ſtroy

ſtroy one as the other. Is there a thing ſo ſacred to be violated upon any trifling pretence, or upon the mere *ipſe dixit* of a miniſter? or is the majority of Parliament become ſo corrupt, as to give up the majeſty of being the repreſentatives of the people, to become the dependant train of an all-powerful miniſter?---A charter *has* been defined to be "a mere bit of paper with a ſeal to it." And by a perſon, who if affairs had continued in the ſame ſituation, would very probably have one day been aſſigned a guardian of our laws. It is not meant to ſpeak ill of this gentleman, but ſurely when he uttered this, he derogated from his uſual dignity and "became the petty advocate; ſinking from the dignity of impartial truths, into the quirks and quibbles of miſconſtructed law.

To dwell upon the importance of charter-rights, would be only inſiſting upon, that which is univerſally admitted as an axiom; ſufficient here to ſay, that the charter of a private company is ſo very near a-kin to the great palladium of our ſecurities, that the deſtruction of it upon ſo frivolous a pretence as the preſent, ſeems to have been advancing with haſty ſtrides towards attempting the firmeſt barrier of our rights and privileges.

Another ill conſequence has been dreaded, from this ſudden revolution, viz. An undue influence being thrown into the hands of Government, ſo as to deſtroy that balance of power which is ſo neceſſary and eſſential to preſerve our preſent conſtitution.

" The influence of the Crown (ſays an " honorable Secretary, then in oppoſition) " has encreaſed, is encreaſing, and ought " to be diminiſhed."—" A charter (ſays a " noble Duke) is a right of ſuch high im- " portance, that it ought not to be in- " fringed, but in caſe of the moſt urgent " neceſſity." Could any one when this was uttered, conceive, that the time was ſo ſhortly at hand, when theſe very perſons would become the inſtruments of the de- ſtruction of the one, and the encreaſe of the other. But circumſtances are altered, (replies the honorable Secretary) very true! " et *ars mutamuria* illis. At that day the addition of power, and the poſſeſſion of the charter, would have been in others, " et *me* rebus, non mihi *res* ſubjungere conor, ſhews the real opinion of thoſe who

are now the promoters of the bill; I hope the digreſſion will not be unpardonable.

To return to the ſubject; let us ſpeculate as juſtly as poſſible, the effect which this bill may in its conſequences have upon the conſtitution.

It is a principle and inherent and inſeparable from our conſtitution, that each part of which it is compoſed, ſhould be diſtinct and independent of each other—that the legiſlative ſhould not have the leaſt ſway in the execution of thoſe laws, which they themſelves have enacted; nor, on the other hand, ſhould that power have the leaſt influence in framing thoſe laws to whom alone is committed the execution of them; leſt the ſame monarch, or ſenate,

ſhould

ſhould enact tyrannical laws to execute them in a tyrannical manner.

In this balance therefore of each part, and in the reciprocal action and reaction which forms an equilibrium between the ruling powers, is produced the freedom of our conſtitution—And "if I was to point out, ſays a great conſtitutional * writer, the "principal events which would prove im- "mediately the ruin of the Engliſh Go- "vernment, I would anſwer, the Engliſh "Government will be no more, either "when the legiſlative power ſhall become "more corrupt than the executive, or when "the repreſentatives of the people ſhall begin

* De l'Holme. p. 434.

" begin to ſhare in the executive autho-
" rity."

Admitting theſe then as events moſt likely to endanger the conſtitution; I ſhall conſider how far the veſting the affairs of the Eaſt India Company in the hands of Government, may tend to deſtroy this independent juriſdiction, and ſubject them both under the ſame authority.

As the corruption of the legiſlature ſeems the moſt probable cauſe which can at firſt endanger the conſtitution, and as Parliament compoſe the chief branch of that power, it is a matter moſt eſſential to the liberties of this kingdom, that ſuch members be delegated to this important truſt as are moſt eminent for their probity, their fortitude, and their knowledge; for

For it was a known apothegm of the great Lord Treaſurer Burleigh, that England could never be ruined but by a Parliament. Now the primary cauſe of the corruption of this power, muſt at all times exiſt in the people, the root from which it originates. If we can ſuppoſe the people in general incapable of being influenced in regard to their choice of repreſentatives, by any ſiniſter or private views; but directed ſolely according to the opinion they entertain of the wiſdom or goodneſs of each Candidate; formed upon ſuch a baſis, we can ſcarce form an idea of that, nay, I had almoſt ſaid any part of the conſtitution, whilſt pois'd by ſo firm a weight, ever varying from its original perfection. For ſhould any repreſentative during the time of his ſit-

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ting in Parliament, at any time derogate from the integrity originally entertained of him, the power which reverts to the people at the diſſolution of Parliament, of removing him, and ſupplying his place with a better, muſt give him but a ſhort opportunity of endeavouring any thing to the prejudice of his conſtituents or country.

That this is not the caſe; but that the generality of boroughs are influenced in their choice by the means of bribery and intrigue is a part ſo very notorious, as not to be doubted ever by the moſt ſcrupulous: not to mention thoſe ſmall boroughs which are ſaleable like private property from one individual to another; I ſhould not aſſert too much, was I to ſay that excluſive of theſe, the majority of votes

votes in moſt, may be acquired by the means of a deep purſe, and an artful tongue.

It is a fact very well known that one of the largeſt and moſt popular * boroughs in England, was at laſt diſſolution of Parliament, repeatedly offered by ſome electors of the greateſt ſway, to men who were totally unconnected with it, for ſuch a particular ſum; ſucceſs at laſt terminated in his favor, who could longeſt afford a bribe.

To be ſhort, will it not be the caſe in almoſt every borough, that where two Candidates

* Worceſter.

didates of oppoſite principles offer themſelves, the return will be in his favor who is poſſeſſed with the means of giving the largeſt reward? If this be granted, it will follow, that ſo long as a miniſter is poſſeſſed of a ſufficient fund, he may be able to make the majority of returns entirely in his favor; nay, ſo difficult and almoſt impoſſible is it to recal a people from a degenerate ſtate, to their priſtine virtue, that a miniſter by ſuch means may almoſt gain a perpetual authority.

It need not be here mentioned that the power of the crown, and the power of the miniſter, is one and the ſame; and that every public act, which is ſaid to be that of the King, is that of the miniſter, or at leaſt what is agreeable to the

will of the miniſter: for as he is amenable and reſponſible alone for the acts of the crown, or the executive part of government, it is but reaſonable he ſhould have the direction of it. If therefore the miniſter poſſeſſeth the means of influencing the people by bribery, or any other artful inſinuations or practices, ſo as to compoſe a majority in Parliament of thoſe people who are devoted to his will, he then is in poſſeſſion of the executive and legiſlative part of the conſtitution, ſubject alone to his own authority. Here then is the period aſſigned, at which the independancy of our conſtitution is loſt; when by the corruption of the legiſlative power, it becomes ſubſervient and dependant upon the executive authority.

But

But there it will be ſaid; has not the King a power lodged in him by the conſtitution of chooſing his miniſters, and of removing thoſe whom he conceives to act contrary to the truſt repoſed in them? He has ſo. But what is the conſequence of this? He muſt chooſe others, and what others will be able to act, when the majority of the people are in oppoſition? He may diſſolve the Parliament; and the ſame, for reaſons which will be hereafter given, will be immediately returned. The former miniſters muſt therefore either remain in office, or the part of the conſtitution moſt probably ſo rent by faction, as to make the conſequences more to be dreaded than foretold.

How

How much the preſent bill is applicable to the above, remains now to be conſidered.

The purport of the bill is, to veſt the power, territories, riches, &c. of the Eaſt Indies in the hands of miniſtry——or in thoſe whom they ſhall chooſe to appoint. Here then is a fund lodged in the hands of the miniſter as to enable him to form the majority of Parliament of thoſe who are devoted entirely to his will; if he can retain this Parliament, of courſe one of the two events before ſtated muſt enſue, either that the executive and legiſlative power is united in the ſame hands, or here are the different powers which compoſe the chief ſtrength of a machine, acting directly in oppoſition to each other; ſo long as this continues, the rule of the

mechaniſm

mechaniſm will hold, that no effect can poſſibly be produced. What the final iſſue may be, is perhaps beyond the inveſtigation of the deepeſt ſpeculatiſt. But it may be ſaid, as the King has the power of diſſolving the Parliament, and of nominating new miniſters, this vaſt influence and power which reſults from the poſſeſſion of the affairs of India, muſt fall into their hands, and of courſe a new Parliament be elected, totally in oppoſition to the views of the former miniſtry; and by this power of one branch of the conſtitution, of priſing and counteracting the power of the other, little danger may be apprehended of any miniſter becoming ſo abſolute and independent.

This the politic Secretary eaſily foreſaw, to obviate it therefore he wiſely puts his

his power upon a more ſtable foundation, by ordaining that nine commiſſioners be nominated who are to have the ſole direction—Theſe not removeable at will, or like moſt other ſuch magiſtrates "*quam diu* "*ſe bene geſſerint*," but abſolutely to endure for ſeven years, capable of having a ſeat in * Parliament: theſe being nominated

* Our Anceſtors wiſely enacted to prevent the effects which would obviouſly reſult from this, by enacting "that all perſons concerned in the management of any taxes, created ſince 1692; commiſſioners of prizes, navy, victualling office, &c. comptrollers of the army accompts; agents for regiments; the clerks in the different offices of the revenue; any perſons holding any new offices under the crown, created ſince 1705; or having a penſion under the crown, during pleaſure, or for any term of years, are incapable of being elected members. Stat. 11 and 12. William III. c. 2. 12 & 13. William III. c. 10. Ann c. 7. 15. George II. c. 22. 1. George I. c. 56.

ted whilſt he is in power, of courſe are creatures of his own——This therefore makes it the ſame as if the power was lodged in his own hands, for whether it veſts in others of his own nominating, and abſolutely at his own diſpoſal, or in himſelf, no material difference ariſes. Let us even go farther, and ſuppoſe, that exactly at the expiration of the power of the ſaid commiſſioners, the King chooſes a new miniſtry, and diſſolves the Parliament, then the powers of the former commiſſioners being expired, ſuch may be elected, as is moſt agreeable to the King, or preſent miniſtry. Not to mention the dangerous acts of power which a miniſter with a Parliament devoted to his will may commit during the ſpace of ſeven years; but allowing this as ſome opportunity of remedy, yet, as part of the commiſſioners

are

are only nominated by the crown, only part of the power at this time, can be aſſumed by the crown; therefore it is not ſo capable of influencing in its favour the enſuing elections. Beſides, it may be doubted whether there can be ſuch an Inter-regnum, and whether, as part are to be nominated by parliament, that part of the old commiſſioners will not continue in power till the ſitting of the next parliament, who are to nominate new ones. —In ſhort, the confuſion which would probably enſue at ſuch a period, may threaten little more dangerous conſequences; but admitting even the ſuppoſition, ſuch an immediate power would not be likely to reſult to government, as to make the majority of returns in the next election, in oppoſition to the preceding miniſter.

Here

Here then is the reſult of our enquiries —either this bill will be likely to throw ſuch an influence into the hands of the miniſter, as to render him ſo abſolute as to unite at once in the ſame hands, the executive and legiſlative part of government; or to throw the ſtate in ſuch a convulſion by the oppoſition of its parts, as to make us apprehend the moſt dangerous conſequences.

The firſt government, ſays a great conſtitutional writer, meaning England, was in danger of total deſtruction, when Bartholomew Columbus was on his paſſage to England, to teach Henry VII. the way to Mexico and Peru,* becauſe (ſays he)

* When the aſtrologers in France were every year foretelling the death of Henry IV. "*Theſe fellows*, ſays he,

the crown would then become independent of the nation for its ſupplies. For the ſame reaſon may almoſt as great danger be apprehended in veſting the territories of the Eaſt Indies in the hands of a powerful miniſter, becauſe it tends to deſtroy that dependency which a miniſter ought always to be under, and renders that part of the conſttiution on which he ought to be moſt dependent, ſubordinate to his own ends.—When the conſtitution has degenerated to ſuch a degree as this, its deſtruction has been foretold.‡—" It will " periſh when the legiſlative power ſhall " be more corrupt than the executive, " which

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he, *muſt be right at laſt:* We ſhall therefore, be more cautious than to aſſign any preciſe date, ſhall content ourſelves with pointing out the event in general.

‡ De l'Home, c. 18. p. 381.

" which leads to the other date preſcribed
" alſo, when the legiſlative and executive
" power is lodged in the ſame hands."

Theſe ſeem to be the events, which, had the bill now paſſed, or ſhould hereafter paſs, reaſon foreſees, as clearly almoſt as ſhe can do any thing that lies in the womb of time.§ And though the ancintsmaintained, that in order to reach the gift of prophecy, a certain divine fury or madneſs was requiſite, one may ſafely affirm, that in order to deliver ſuch prophecies as theſe, no more is neceſſary, than merely to be in one's ſenſes, free from the influence of popular madneſs and deluſion.

To

§ Monteſquieu. Sp. L. 11. 6. ſee p. 12.

To conclude this ſhort work—If theſe conſiderations are formed upon any ſure foundation, and if the Eaſt India bill, when paſſed, will be productive of ſuch conſequences, the immediate diſſolution of the *Parliament, who could vote ſo ruinous a meaſure, muſt evidently appear; and though a late miniſter would feign repreſent his cauſe as the cauſe of the people, yet if we have ſenſe enough to diſtinguiſh words from actions, we ſhall find that he is only making uſe of the people to become their tyrant: and however we may be attracted by the faſcinating powers of his eloquence, yet like the deceitful ſyren, he charms only to lead us to our deſtruction.

It

* De l'Home.

It may be intimated to the people, that the act of the throne in diſſolving at this time the parliament is an arbitrary meaſure, yet let them know that it is that which defends them from the ambitious projects and dangerous views of an intriguing miniſter: that it is that only, to conclude with the words of a beautiful ‡ writer, which can make

‡ I need only inſtance an Act which was done the other day to ſhew the corruption of the preſent Parliament:—When the important buſineſs of the day was over it was previouſly agreed that forty of the members, juſt neceſſary to form a houſe, ſhould remain behind. After the buſineſs was over, and the other members had left the houſe, it was immediately moved that Sir Thomas Rumbold's bill ſhould be deferred till the 26th of July, which is in effect quaſhing it entirely.—The members came each laughing out of the houſe, and young Rumbold cried. "Go tell my father"—This is a plain fact which can be atteſted by every one who was preſent.

make him equally intereſted with his fellow citizens, to maintain the laws on which public liberty is founded.

" He knows in the midſt of his plans " for enjoying or retaining his autho- " rity, that a court intrigue, or a caprice, " may at every inſtant confound him with " the multitude; and the rancour of a ſuc- " ceſſor long kept out ſend him to linger " in the ſame jail which his temporary " paſſions might tempt him to prepare for " others.

" That it is that which leaving to the " rich no other ſecurity for his palace, " than what the peaſant has for his cot- " tage, has united his cauſe to that of the " latter—the cauſe of the powerful to that " of the helpleſs---the cauſe of the man

" of

"of extenſive influence and connections,
"to that of him who is without friends.

"It is the throne above all, it is this
"jealous power, that makes the people
"ſure that its repreſentatives never will
"be any thing more than its repreſenta-
"tives; and it is the ever-ſubſiſting Car-
"thage which vouches to it for the dura-
"tion of their virtue."

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